

ECKERSTROM, Presiding Judge.

¶1 Appellant Robert Bouconi appeals from a superior court order dismissing his complaint for lack of prosecution. The tort claims underlying this appeal stem from an incident that took place at the residence of appellee Randall Neis in August 2006. Having been invited there by Neis, Bouconi claims he was knocked to the ground by Neis’s dog, which caused him to sustain “a torn stomach muscle, fractured hip,” and damage to his prosthetic leg. On November 28, 2007, the trial court dismissed Bouconi’s complaint without prejudice pursuant to Rule 38.1(d), Ariz. R. Civ. P., after finding the matter had been on the court’s inactive calendar for two months and that no motion to continue the case on the inactive calendar had been filed. Because we find we lack jurisdiction over this appeal, we dismiss it, without addressing Bouconi’s arguments.

¶2 This court’s jurisdiction is limited by statute. *See* A.R.S. § 12-2101; *Grand v. Nacchio*, 214 Ariz. 9, ¶¶ 12, 16, 147 P.3d 763, 769, 770 (App. 2006). We must dismiss an appeal over which we have no jurisdiction. *Davis v. Cessna Aircraft Corp.*, 168 Ariz. 301, 304, 812 P.2d 1119, 1122 (App. 1991). Normally, an aggrieved party may only appeal from an order of the superior court upon the entry of a “final judgment.” § 12-2101(B); *see also Harris v. Cochise Health Sys.*, 215 Ariz. 344, ¶ 8, 160 P.3d 223, 226 (App. 2007); *Davis*, 168 Ariz. at 304, 812 P.2d at 1122. “An order of dismissal without prejudice is not a final determination of the controversy on the merits, and is no bar to the prosecution of another suit timely commenced, founded upon the same cause of action.” *State v. Boehringer*, 16 Ariz. 48, 51, 141 P. 126, 127 (1914). Because it is not a final judgment,

“[a] dismissal without prejudice is not appealable.” *L.B. Nelson Corp. of Tucson v. W. Am. Fin. Corp.*, 150 Ariz. 211, 217, 722 P.2d 379, 385 (App. 1986).

¶3 Nor is the court’s order appealable under any other provision of § 12-2101. Section 12-2101(D), for example, gives this court jurisdiction over appeals “[f]rom any order affecting a substantial right made in any action *when the order in effect determines the action and prevents judgment from which an appeal might be taken.*” (Emphasis added.) *See Boehringer*, 16 Ariz. at 51, 141 P. at 127. But this subsection does not apply here. Bouconi has alleged that his injuries and damage to his prosthetic leg occurred on August 4, 2006. Based on the applicable statute of limitations, his lawsuit must be filed within two years of that date. *See* A.R.S. § 12-542. The trial court’s order of dismissal without prejudice, therefore, did not prevent Bouconi from timely refiling his claims and obtaining a final judgment.

¶4 Because this court lacks jurisdiction, the appeal is dismissed.

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PETER J. ECKERSTROM, Presiding Judge

CONCURRING:

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PHILIP G. ESPINOSA, Judge

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GARYE L. VÁSQUEZ, Judge